

# **EXHIBIT 6**

**Wolfclan, et al. v. Pierce County, et al.**

**Status Conference**

**July 11, 2024**



1325 Fourth Avenue, Suite 1840, Seattle, Washington 98101  
Bellingham | Everett | Tacoma | Olympia | Yakima | Spokane  
Seattle 206.287.9066 Tacoma 253.235.0111 Eastern Washington 509.624.3261  
[www.buellrealtime.com](http://www.buellrealtime.com)  
email: [audio@buellrealtime.com](mailto:audio@buellrealtime.com)

Status Conference - 7/11/2024

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

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ECHOTA WOLFCLAN, et al.,	)	
	)	
Plaintiff(s),	)	
	)	
vs.	)	
	)	NO. 3:23-cv-05399-TSZ-SKV
	)	
PIERCE COUNTY et al.,	)	
	)	
Defendant(s).	)	
	)	

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STATUS CONFERENCE

The Honorable S. Kate Vaughan Presiding  
July 11, 2024

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TRANSCRIBED BY: ELIZABETH PATTERSON HARVEY, WA CCR 2731

A P P E A R A N C E S

On Behalf of Plaintiff(s):

J. Scott Pritchard  
scott.pritchard@stoel.com  
Alissa Harris  
ali.harris@stoel.com  
Stoel Rives  
600 University Street, Suite 3600  
Seattle, Washington 98101  
206.386.7598

On Behalf of Defendant(s):

Frank A. Cornelius, Jr.  
frank.cornelius@piercecountywa.gov  
Jana Hartman  
jana.hartman@piercecountywa.gov  
Pierce County Prosecuting Attorney  
930 Tacoma Avenue S Room 946  
Tacoma, Washington 98402  
253.253.7986

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3 PROCEEDINGS PAGE

4 Court Conducts Colloquy With the Parties 4

5

6 E X H I B I T I N D E X

7 EXHIBITS FOR IDENTIFICATION

8 (No exhibits marked)

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2 July 11, 2024

3  
4 THE CLERK: The United States District Court for  
5 the Western District of Washington is in session, The  
6 Honorable Kate Vaughan presiding.

7 Your Honor, the matter before the Court is  
8 scheduled for a status conference in Case Number CV-23-5399,  
9 assigned to Judge Zilly, Wolfclan versus Pierce County, et  
10 al.

11 Counsel, please make your appearances, starting  
12 with the plaintiff.

13 ATTORNEY PRITCHARD: Scott Pritchard on behalf  
14 of the plaintiff, along with my colleague, Alissa Harris.

15 ATTORNEY CORNELIUS: Frank Cornelius on behalf of  
16 of Defendants.

17 ATTORNEY HARTMAN: Jana Hartman on behalf of  
18 Defendants, although Mr. Cornelius will be addressing the  
19 Court today.

20 THE COURT: All right. Thank you to you all.

21 And good afternoon, Mr. Pritchard and Ms. Harris  
22 and Mr. Cornelius.

23 And where did you go? I think you turned your  
24 camera off. Oh, Ms. Hartman. There you are. All right.  
25 So if you could keep your camera on, that would be great

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1 since you are participating in the hearing even though  
2 Mr. Cornelius is addressing the Court.

3 Thank you to you all for being here.

4 I have reviewed Docket 108, the combined Joint  
5 Status Report and Discovery Plan. The Court, on reviewing  
6 that, issued an order setting this and providing the parties  
7 with an updated case list, and that was Docket 111.

8 Because there are some differences in views with  
9 respect to some fairly significant matters, the Court  
10 thought it would be helpful, before issuing a ruling, to get  
11 folks together and understand a little more about some of  
12 the issues.

13 I'm going to start first with the discovery plan.  
14 The main difference is that Defendants, Mr. Cornelius, you  
15 are seeking a phased discovery plan with limits only to the  
16 Rule 23 issues and to merits with respect to Mr. Wolfclan  
17 alone.

18 And Mr. Pritchard, I understand that you are just  
19 seeking non-phased forward discovery with respect to the  
20 subjects set forth in the status report, not limited to  
21 those.

22 The question that I wanted to ask is, you know,  
23 sometimes limiting it to Rule 23 issues is appropriate here,  
24 but it seems as if having reviewed the subjects set forth on  
25 page 3 of Docket 108, that many of those do go to the

1 question of numerosity and common question, which Plaintiffs  
2 are required to satisfy for Rule 23.

3 So Mr. Cornelius, are there any specific areas  
4 that you think would make sense to phase that you can --  
5 that you can identify?

6 ATTORNEY CORNELIUS: Well, one thing that we have  
7 concern regarding, your Honor, is as far as discovery  
8 regarding additional detainees, at least to the extent it  
9 would call for jail file material.

10 Here, the Jail Act in Washington provides for  
11 privacy for inmates; but then, too, regarding the nature of  
12 the claim, the fact that these are conditions of  
13 confinement claims, we are concerned that as far as the  
14 nature of injury that different detainees or different  
15 inmates might allege, that that's just going to open up an  
16 issue regarding the medical, whether or not the medical  
17 satisfies the conditions of confinement. So we have  
18 concerns about that.

19 We do think that some limited discovery,  
20 certainly on the numerosity, could be allowed, but opening  
21 up broad discovery -- so for example, I would assume that if  
22 class action was allowed, that we could be talking about  
23 years.

24 And we could be talking about -- and I don't  
25 recall just precisely how many inmates might be housed in



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1 this particular area of the jail at a time, but I think it  
2 could be approximately a dozen. But we could be talking,  
3 you know, a couple hundred people over a period of time.

4 And I don't think that that type of discovery at  
5 this point is proportional to the needs of the case, not  
6 full-blown discovery like that. But I think that's -- as I  
7 see it, looking at it, I think that we could address  
8 discovery in a more limited fashion to try to determine  
9 that.

10 I mean, likewise, as far as common questions, I  
11 think those are clear. I mean, it seems like based on the  
12 class definition that Plaintiff's providing, we're looking  
13 at a very specific area of the jail. We're talking about a  
14 very specific type of complaint. This is the sewage issue.  
15 So I don't understand why broad discovery would be needed  
16 related to that issue.

17 I think that that type of discovery can be  
18 narrowed, and that would go to the common questions of law  
19 and fact.

20 As far as the typical -- typicality, again,  
21 regarding broad discovery, I think that this might blend in  
22 to the numerosity claim. But I believe again, the way  
23 Plaintiff's claims are stated, that limited discovery and  
24 limited merits discovery would be okay.

25 So I don't see -- again, I don't see why a broad

1 amount of discovery would be needed on this. It seems to  
2 appear to be based on the allegation that there's a  
3 condition in the jail, that that condition in the jail  
4 causes certain circumstances, and that certain individuals  
5 -- and these would be individuals that are specifically in  
6 that area of the jail -- would be exposed to and may have  
7 harm.

8 So I don't see broad discovery being necessary.  
9 I think a phased discovery would be appropriate.

10 THE COURT: All right. Thank you, Mr. Cornelius.  
11 Mr. Pritchard or Ms. Harris, I'm not sure who's  
12 speaking for the plaintiff.

13 ATTORNEY PRITCHARD: I will today.

14 THE COURT: Okay.

15 ATTORNEY PRITCHARD: And thank you.

16 I just first want to say that the class  
17 definition is in the amended complaint, and it is not  
18 limited to Cell Block 3 North A. It also includes any other  
19 cell blocks having unremedied plumbing defects leading to  
20 the same, similar, or worse living conditions.

21 And I think Mr. Cornelius' comments just  
22 illustrates the problem. We've asked for a specific  
23 proposal: What kind of limited discovery would make sense  
24 under the circumstances that only go to the class  
25 certification issues.

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1                   And we didn't, frankly, receive it. We never  
2                   received it. It's not in the joint report. And as far --  
3                   my reaction is that I'm still not hearing what it is.

4                   If the defendants want to stipulate to certifying  
5                   the class, that's great. Right? But I mean, but these  
6                   questions are all implicated in our motion for class  
7                   certification.

8                   And we've issued discovery requests. They've  
9                   been very targeted, I believe. And we're working through  
10                  issues related to ESI. It's possible that we are going to  
11                  have issues related to discovery disputes. But that seems  
12                  to be more about positions that Defendants may take as to  
13                  overall relevance related to the underlying claims.

14                  But again, I just don't see a clear way of  
15                  separating class certification issues from the merits in  
16                  this case. And at a minimum, the discovery that the  
17                  plaintiff would need is not limited to one particular cell  
18                  block.

19                  And so I think to a certain extent it's  
20                  inevitable that we are going to need broader discovery, even  
21                  in connection with the class certification motion. And if  
22                  we can cooperate on it and get the discovery we need, we'll  
23                  file a motion for class certification earlier than the  
24                  deadline that we've proposed.

25                  But we've had these concerns from the outset. We

1 still haven't received responses to our outstanding  
2 discovery requests. We've provided an extension, and that's  
3 agreed upon. But we just don't want to be needlessly jammed  
4 or limited in our ability to present our case.

5 THE COURT: So Mr. Cornelius raised the issue of  
6 medical privacy. And looking at your list, I was wondering  
7 -- because it seems to me relevant discovery with respect to  
8 those inmates that have made complaints with respect to the  
9 conditions and that have caused them issues.

10 But I'm wondering whether there's a way to leave  
11 until merits the exploration of the actual impact of that,  
12 the medical records that would underlie that. So I'm just  
13 wondering, Mr. Pritchard, if you have any thoughts on the  
14 medical privacy issues that Mr. Cornelius raised?

15 ATTORNEY PRITCHARD: Sure. So I think to a  
16 certain extent, this goes back to the fact that we very  
17 purposefully in our complaint have asserted only an  
18 individual claim for damages on behalf of Mr. Wolfclan.

19 But we are seeking injunctive relief on behalf of  
20 the class.

21 And I do think that that -- that the standards  
22 are different, but there still is an element of showing  
23 classwide harm. What exactly that looks like is perhaps up  
24 for debate legally, right?

25 But, you know, I think I would be open to

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1 conversations with Mr. Cornelius, and maybe we could come up  
2 with a way limiting medical related, physical injury related  
3 documents in discovery to the main plaintiffs at this point.

4 But I'm just reluctant to say that that wouldn't  
5 be needed as a part of class certification (inaudible) as  
6 well (inaudible).

7 THE COURT: Okay. And the Court's understanding  
8 would be that the parties would be amenable to the entry of  
9 some form of protective order with respect to typically  
10 health related matters. Mr. Cornelius; is that correct?

11 ATTORNEY CORNELIUS: As it would relate to the  
12 named Plaintiff, Mr. Wolfclan, your Honor, but I think the  
13 Jail Act -- again, I don't think that that's something -- I  
14 don't think a protective order is something that the county  
15 can enter into that would waive the privacy issue that the  
16 Jail Act provides. I think that's something -- I think it's  
17 more individual, I believe, to the particular inmate.

18 And whether or not -- as I understand what the  
19 Court was saying, I could see those potential other  
20 plaintiffs that have brought lawsuits potentially certainly  
21 that they -- an individual party can waive -- inmate party  
22 can waive their privacy issue.

23 But those individuals that are not parties, I  
24 don't believe the Jail Act would allow the county  
25 independently to enter into a protective order to allow

1 disclosure of that information.

2 But -- and I also just want to address the issue  
3 regarding the class definition. Mr. Wolfclan was only --  
4 this issue only applies to him as it relates to the mental  
5 health portion of the jail. And that's, I believe, that 3 N  
6 -- 3 North A section.

7 I mean, I understand Mr. Pritchard is claiming  
8 that the class would involve, it sounds like, the entire  
9 jail. But Mr. Wolfclan wouldn't have standing to bring such  
10 a claim, and certainly then under that circumstance wouldn't  
11 have the ability to bring discovery related to that claim.

12 Mr. Pritchard indicated that discovery has been  
13 served, and it has. And we have already reached some  
14 informal agreements regarding limitation of that discovery  
15 that even those limitations, though, still remain subject  
16 possibly to Court review.

17 But right now, we're working through that, and  
18 those limitations include the specific area of the jail. It  
19 includes the specific time period that we're looking at. So  
20 we do seem to be cooperating, I guess.

21 I understand that initially, when the JSR came  
22 out, it is our position that discovery should be limited.  
23 But I just want to let the Court know that we are working  
24 through that, at least with what we've been served.

25 We had hoped that the discovery would have been

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1 delayed until after we resolved some of these issues. But  
2 it was served pretty quickly, and I think the parties fairly  
3 have been working through it.

4 So I don't know right now if a specific order  
5 limiting or bifurcating discovery is necessary, considering  
6 we already have discovery served, and also because it seems  
7 like we're working together. If a dispute comes up, then  
8 maybe this issue might come up again.

9 THE COURT: Right. So Mr. Cornelius, what I'm  
10 hearing from you with respect to the Joint Status Report is  
11 you've requested some bifurcated discovery, but what I'm  
12 hearing -- and a court order as such, but what I'm hearing  
13 from you is because you've been working cooperatively with  
14 Plaintiff's counsel, that you feel at this time that such an  
15 order is unnecessary, but you reserve the right, obviously,  
16 as always in any case, to bring matters to the Court's  
17 attention with respect to any conflicts that may arise; is  
18 that correct?

19 ATTORNEY CORNELIUS: That would be our position  
20 your Honor, yes.

21 THE COURT: Okay. Mr. Pritchard?

22 ATTORNEY PRITCHARD: I do just want to say one  
23 thing for the record. We just want documents. And there  
24 was a conversation about scope as to time and as to location  
25 that we had discussed just for the purposes of trying to

1 move things along.

2 But I just want to be clear on the record that we  
3 may very well have an issue related to temporal and  
4 geographic scope of discovery in this case.

5 THE COURT: Okay. All right. Well, I don't want  
6 to sort of proceed with argument on that at this point,  
7 obviously, because it's premature, and it may ultimately be  
8 unnecessary. But thank you for your points on this.

9 All right. Let's move to the framing issues,  
10 then. And this may have changed following on from the  
11 discovery issue.

12 Plaintiff's proposing the closure of discovery on  
13 May 9 and class certification by that date.

14 Defense is requesting class certification be  
15 completed within 180 days -- that's approximately November  
16 or December -- and class certification at that time.

17 So it's obviously a fairly significant sort of  
18 difference in opinion on that. Given that, since the JSR  
19 was filed and you've been working on things, Mr. Cornelius,  
20 do you have any update for the Court on your thoughts on  
21 that timing, or are you sort of standing fast on the end of  
22 the year?

23 ATTORNEY CORNELIUS: I'm standing fast on the end  
24 of the year, your Honor. We are trying to work through the  
25 discovery. I -- we do have answers due -- Mr. Pritchard was



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1 correct that an extension of time was given, and we do have  
2 answers due, I believe it's Monday. We are going to be  
3 trying to produce what we can, and I anticipate -- and we  
4 had a discussion with Mr. Pritchard about this -- that  
5 discovery may be rolling, may be coming in a rollout. But  
6 our goal is to complete this sooner rather than later.

7 With that said, I still feel that a November or  
8 December discovery cutoff date is appropriate.

9 THE COURT: All right. It seems to the Court  
10 slightly contradictory in the sense that some of your  
11 arguments are sort of burdened. And usually, when working  
12 through burden, it takes longer rather than shorter when we  
13 talk about discovery burden.

14 So -- but I'm going to hear from Mr. Pritchard on  
15 his suggested timing with respect to May 2025.

16 ATTORNEY PRITCHARD: Well, I think your Honor is  
17 right. That's my impression as well, and particularly  
18 because I had thought that class certification deadline by  
19 the end of this year was predicated on the idea of there  
20 being some sort of bifurcated or limited phase of discovery.  
21 And it sounds like that is no longer the defendant's  
22 position. And so I don't see how they can (inaudible)  
23 because it's not (inaudible).

24 THE COURT: All right. Let's turn now to the  
25 related cases. Did the parties receive the Court's list of

1 cases that appear to the Court to be related to  
2 Mr. Wolfclan's?

3 ATTORNEY CORNELIUS: Yes.

4 THE COURT: Okay. All right.

5 And Mr. Pritchard, I think you had noted a  
6 position that staying these cases made sense.

7 Mr. Cornelius, I don't believe the defense took a  
8 position.

9 Mr. Pritchard, any update on that?

10 ATTORNEY PRITCHARD: Well, I think essentially  
11 our position is the same. We think that it would create a  
12 pretty significant administrative burden to consolidate  
13 these cases because there would still be individual pro se  
14 plaintiffs that retain individual claims for damages, and we  
15 would not be representing those pro se plaintiffs as to  
16 their individual claims for damages.

17 So in our view, the mechanism of a class action  
18 seeking injunctive relief and a declaratory judgment as to  
19 liability is the most efficient way of handling the issues  
20 here.

21 And it would ultimately, if we get to the point  
22 of a judgment, would go a very long way to deciding the  
23 question that had been raised by the pro se plaintiffs in  
24 all of those other cases, because there would still be a  
25 judgment as to liability if not damages, right?

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1                   So we also went back, our office, looked at the  
2                   individual complaints, can say that virtually all of them  
3                   would be within the class that we are proposing, at least  
4                   again, as to injunctive relief.

5                   So you know, there's no question, in my mind at  
6                   least, that the case that we have with our current client,  
7                   Echota Wolfclan, as a class action would go a long way to  
8                   resolving all of the other issues that have been raised in  
9                   these other cases. And for that reason, we think a stay is  
10                  the most appropriate (inaudible).

11                  THE COURT: All right. Thank you, Mr. Pritchard.  
12                  Mr. Cornelius?

13                  ATTORNEY CORNELIUS: Defense is not opposed to a  
14                  stay.

15                  THE COURT: All right. All right.

16                  So Mr. Pritchard, anything else in the Joint  
17                  Status Report or any other matter that you want to raise  
18                  with the Court at this time?

19                  ATTORNEY PRITCHARD: I don't think so. Thank  
20                  you.

21                  THE COURT: All right. Mr. Cornelius?

22                  ATTORNEY CORNELIUS: Not at this time, your  
23                  Honor.

24                  THE COURT: All right. Let me check one moment  
25                  with my law clerk just to make sure that we have everything

1 covered.

2 All right. So -- yes. All right. So we will --  
3 I will issue an order shortly with respect to timing and  
4 give some clarity on these matters.

5 Again, thank you to all of you for being here.

6 And I understand that discovery is ongoing, it's  
7 rolling. Please do not hesitate to reach out to the Court  
8 if there are any issues.

9 The procedure for that, that sort of minimizes  
10 burden on the parties, is set forth in my chambers  
11 procedures. We can have a phone call. We can do things  
12 pretty quickly.

13 I want to keep this case moving. I know you all  
14 do as well, and I want to sort of nip issues in the bud if  
15 we can, and reduce the briefing burden on you all. So  
16 please feel free to reach out, of course following the  
17 chambers procedures, and we can get things resolved pretty  
18 quickly. All right?

19 All right. Thank you to you all again, and we  
20 will be in recess.

21 ATTORNEY CORNELIUS: Thank you.

22 THE CLERK: Court is in recess.

23 (Conclusion of hearing)

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## C E R T I F I C A T E

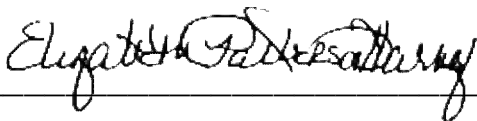
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IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of August, 2024.



Elizabeth Patterson Harvey, CCR 2731